



THE CITY OF NEW YORK  
**LAW DEPARTMENT**  
100 CHURCH STREET, Rm. 3-177  
NEW YORK, NY 10007

**ZACHARY W. CARTER**  
*Corporation Counsel*

**KIMBERLY M. JOYCE**  
Senior Counsel  
Phone: (212) 356-2650  
Fax: (212) 356-3509  
kjoyce@law.nyc.gov

May 11, 2017

**BY ECF**

Hon. James L. Cott  
United States Magistrate Judge  
United States District Court  
500 Pearl Street  
New York, New York 10007

Re: Gabino Genao v. City of New York, et al., 14-CV-8122 (AT)

Your Honor:

I am a Senior Counsel with the New York City Law Department and the attorney assigned to the defense of this matter on behalf of the City of New York, Former Commissioner Schriro, Former Chief of Department Hourihane, Former Deputy Commissioner Finkle, Former Deputy Chief of Department LaBruzzo, Former Assistant Chief of Security Perez, and Former Warden Agro. In that capacity, I write to respectfully request an adjournment of the settlement conference, currently scheduled for Wednesday May 17, 2017, at 2:15 p.m., to a date and time convenient to the Court, of approximately one month. This is the undersigned's first request. Plaintiff's counsel consents to this request but only until June 9, 2017. Mr. Frankie, counsel for co-defendant Simancas, consents to this request. I have attempted to contact co-defendants Jackson and Wint at the email addresses provided but have not yet heard back from them at the time of this submission.

As an initial matter, the undersigned is aware of the Court's individual Rule I.E. and settlement Rule 8, whereby requests for adjournments of settlement conferences must be made at least two weeks prior to the conference, and if not, that the reasons for the requested adjournment be set forth. The undersigned apologizes that this request is made six (6) days prior to the conference. The primary reason for this request is that the undersigned does not yet have settlement authority, as more fully explained below, and, accordingly, an adjournment of the settlement conference will make the conference more fruitful and productive for all parties.

On or about May 5, 2017, while on vacation, I received via email and hand delivery, courtesy copies from plaintiff's counsel of medical records from six (6) of plaintiff's medical providers as well as a neuropsychological evaluation report prepared by a doctor associated with Mt. Sinai. Plaintiff's counsel had previously provided the undersigned with medical releases to obtain the same records, but to date the undersigned has not yet received the records directly from the providers. Without those records the undersigned was unable to properly evaluate this

case, plaintiff's claims for damages, or the appropriateness of plaintiff's demand, which is not insignificant. Given the nature of this case, and the injuries claimed by plaintiff, the undersigned must now have a medical professional evaluate the records and neurophysiological report provided by plaintiff. As I obtained the records from plaintiff on May 5, 2017, and returned from vacation on May 8, 2017, there was not ample time between then and May 10<sup>th</sup>, when defendant's offer was due to plaintiff and ex parte memorandum due to the Court, to have the medical records evaluated and authority obtained.

Additionally, given the serious nature of and the significant demand in this case, the undersigned must also consult with multiple individuals in my office, as well as the Comptroller's Office, and the client agency, the Department of Correction, prior to obtaining settlement authority.

Accordingly, the undersigned respectfully requests a brief adjournment of the settlement conference to a date and time convenient to the Court of approximately one month from now, so that the undersigned can have plaintiff's medical records evaluated and obtain authority.

If the Court is inclined to grant the undersigned's request, the undersigned will confer with co-defendants Wint and Jackson as to their availability and then confer with the Court's Deputy Clerk as to the Court's availability. I have conferred with plaintiff and counsel for defendant Simancas, and we are available on May 22<sup>nd</sup>, 24<sup>th</sup>, and 26<sup>th</sup>, June 6<sup>th</sup>, 8<sup>th</sup>, and 9<sup>th</sup>.

I thank Your Honor in advance for your consideration of this request.

Respectfully submitted,

/s/

Kimberly M. Joyce  
Senior Counsel

cc: All Counsel (by ECF and Email)